

REMARKS

This is intended as a full and complete response to the Office Action dated August 12, 2003. Claims 1-17 stand initially rejected under 35 U.S.C. § 112 for informalities, and under 35 U.S.C. § 103 (a) over U.S. Pat. No. 5,996,316 (*Kirshcher*) in view of Official Notice. Claims 1, 6-8 are amended, claims 25-29 are added, and claims 12-17 are cancelled, each without prejudice. The Examiner is respectfully requested to reconsider the rejections and to contact the undersigned if there are any remaining issues that the Examiner believes could be resolved in an interview that could result in allowance of the case.

Claims 1-2 and 4-17 stand initially rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,996,316 (*Kirschner*) in view of Official Notice. The Examiner states *Kirschner* discloses a system and method substantially as claimed, but does not specifically show removing the bulk container from a pallet and transfer of product from the bulk container into an individual storage container for retail to the consumer, a beverage as a concentrated form that can be reconstituted later, or the use of a vending machine. The Examiner takes Official Notice of removing bulk containers from palletized loads, transferring a product from a bulk container to a individual storage container for consumer use, transfer of a soft drink syrup in a concentrated form, and incorporation of a vending machine are well known and expected in the art. The Examiner also notes that the system of *Kirschner* could be extended to soft drinks, coffee, and other foodstuffs. Regarding claim 13, the Examiner further states that it would have been an obvious matter of design choice to substitute a household detergent product, because vending machines are used at Laundromats. Regarding claim 3, the Examiner notes that a dry break coupling system is well known as stated in the specification background.

The Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a). The present invention represents an entirely new paradigm in this field that is not taught, shown, or suggested. Three basic criteria must be met to establish a *prima facie* case of obviousness, according to the MPEP. There must be a suggestion or motivation to modify the reference or combine references teachings, be a reasonable expectation of success, and teach or suggest all the claim limitations. (MPEP §§ 2142-2143.) Further, it "is difficult but necessary that the decision maker forget what he or she has been taught . . . about the claimed invention and cast the mind back to the time the invention was made (often as here many years), to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art." (MPEP § 2141.01, citing *W.L. Gore & Associates, Inc., v. Garlock, Inc.*, 7231 1540, 220 USPQ 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)). If a claim contains at least one limitation that the cited reference does not teach, show, or suggest, the claim is not obvious in light of the reference. (MPEP § 2143.)

Further, no reference is cited and no evidence is provided that supports the rejection of these and other features as merely matters of design choice, as required by case law. *In re Dembiczaik*, 50 USPQ2d 1614, 1617-1618 (Fed. Cir. 1999) (overruling a Board's rejection based on asserted obvious design choice); *see also, ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 221 USPQ 929, 933 (Fed. Cir. 1984) ("Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination."). C (m) 13

In general, the invention fulfills a need in the cleaning product and detergent industry that heretofore has simply gone unmet even with years of motivation, which with hindsight may seem readily apparent. Even the well known example used by Examiner and

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known to virtually everyone who goes to the Laundromat exemplifies the state of the art prior to the present invention and does not teach, show, or suggest the present invention.

The present invention represents an entirely new approach. The invention provides for shipping the household cleaning and detergent consumer products in bulk containers to a retail site and then dispensing the bulk household cleaning and detergent consumer products into individual storage containers. The Laundromat example represents prior art, where the individual containers of household cleaning and detergent consumer products are already prepackaged, predelivered, and presorted in the *final* retail form. Despite the advantages, it simply has not been an option to dispense from bulk containers in this particular field, namely, household cleaning and detergent consumer products.

Further, new independent claim 24 recites that the household cleaning and detergent consumer products are delivered in concentrated form and then reconstituted at the point of dispense at the retail site. For decades in this field, the household cleaning and detergent consumer products have been delivered in their *final* retail form for dispense without reconstituting. Former claims 4-6 recite similar language. Still further, new dependent claim 25 and former claims 7-8 recite that the household cleaning and detergent consumer products that were reconstituted at the retail site are dispensed from a vending machine. The only example provided by the Examiner in this field is a Laundromat where the products are not reconstituted, but rather shipped from a manufacturing facility in a final form in individual containers. No reconstituting occurs at the retail site. New dependent claim 26 further recites that the household cleaning and detergent consumer products are delivered into reusable containers. In this field, the containers are discarded. The present invention represents an improvement in the field.

Still further, new independent claim 27 recites that the household cleaning and detergent consumer products are shipped in bulk form and then transferred to and dispensed from a vending machine into the individual storage containers at the retail site for retail to the consumer. It is well known to dispense the prepackaged, predelivered, and presorted individual containers—it is not known and there is no teaching, showing, or suggestion to transfer from the bulk container at the retail site to the individual storage containers at the retail site for resale through the vending machine at the site. New dependent claim 28 recites that the household cleaning and detergent consumer products are concentrated and then reconstituted at the retail site. No reference teaches, shows, or suggests the limitations of claim 28. New dependent claim 29 further recites that the household cleaning and detergent consumer products are delivered into reusable containers. As stated above, containers are discarded for household cleaning and detergent consumer products and the Examiner provides no reference that teaches, shows, or suggest otherwise.

In conclusion, the reference cited by the Examiner does not teach, show, or suggest the present invention. Therefore, it is believed that the rejections made by the Examiner have been obviated, and Applicant respectfully requests that the same be withdrawn. Allowance of the remaining claims is therefore respectfully requested.

Respectfully submitted,

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Date: 9/30/03

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